

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 ADRIAN L JONES,

Case No. 2:17-cv-02457-APG-GWF

5 Plaintiff,

ORDER DISMISSING CASE

6 v.

7 WARDEN D. NEVEN, et al.,

8 Defendants.
9

10 This is a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a former state
11 prisoner. On August 7, 2018, Magistrate Judge Foley denied the application to proceed *in forma*
12 *pauperis* for prisoners because plaintiff Jones was no longer incarcerated. ECF No. 8 at 2. Judge
13 Foley ordered Jones to file a fully complete application to proceed *in forma pauperis* for non-
14 prisoners or pay the full filing fee of \$400.00 and update his address within 30 days. *Id.* The 30-
15 day period has now expired, and Jones has not complied with or responded to the order.

16 District courts have the inherent power to control their dockets and “[i]n the exercise of
17 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
18 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
19 dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey
20 a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th
21 Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-
22 61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of
23 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply
with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal*
Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order);
Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
failure to comply with local rules).


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1 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
2 order, or failure to comply with local rules, the court must consider several factors: (1) the public's
3 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the
4 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
5 merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831; *Henderson*,
6 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at
7 53.

8 Here, the first two factors weigh in favor of dismissal. The third factor—risk of prejudice
9 to the defendants—also weighs in favor of dismissal, because a presumption of injury arises from
10 the unreasonable delay in filing a pleading ordered by the court or prosecuting an action. *See*
11 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
12 disposition of cases on their merits—is greatly outweighed by the factors in favor of dismissal.
13 Finally, a court's warning to a party that his failure to obey the court's order will result in dismissal
14 satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833
15 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. Judge Foley's order expressly stated that if Jones
16 failed to timely comply with the order, dismissal may result. ECF No. 8 at 2. Thus, Jones had
17 adequate warning that dismissal would result if he failed to comply.

18 IT IS THEREFORE ORDERED that this action is dismissed without prejudice based on
19 plaintiff Jones's failure to update his address and to file an application to proceed *in forma pauperis*
20 for non-prisoners or pay the full filing fee in compliance with the August 7, 2018 order. The Clerk
21 of Court shall enter judgment accordingly.

22 DATED THIS 17th day of September, 2018.

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Andrew P. Gordon
UNITED STATES DISTRICT JUDGE